

REMARKS

Reconsideration of the above-identified application is respectfully requested in view of the following amendments and remarks.

Claims 1-8 and 10-21 are pending and stand rejected.

Claims 1, 6 and 17 are independent claims.

Claims 1, 3,-8, 12, 16 and 17 have been amended. Claims 2, 9-11, 14, 15 and 18-21 have been cancelled without prejudice.

Claims 1-8 and 10-20 stand rejected under 35 USC 102 as being anticipated by Hashimoto (USP 5,706,271, hereinafter D1). Claim 21 stands rejected under 35 USC 103 as being unpatentable over D1.

Applicant thanks the Examiner for taking the time to discuss, telephonically, the proposed amendments to the claims and the Applicant's position, wherein the proposed amendments to the claims further clarify the subject matter claimed and further distinguish the invention claimed over the cited references.

In addition, in response to the discussion held regarding the Examiner's position, each of the independent claims has been amended to recite the element of "a plurality of Temporary Data Management areas of a known dimension for storing disc management information and a designation area, independent of said Temporary Data Management areas including a predefined number of clusters, said predefined number of clusters corresponding to being associated with a number of said plurality of Temporary Data Management areas,..."

No new matter has been added. Support for the amendment may be found at least in Figure 4 and page 4, lines 15-33 ("Figure 4 shows part of an information layer L0

of a dual layer disc (as is shown in figure 2) where a TDM0 consisting of 1048 clusters is followed by a Detection Area consisting of 4 clusters. ... In an alternative embodiment, an additional cluster is added for indicating whether or not the TDMA0 area is being used.”).

None of the references provides for an independent designation area that for determining whether a corresponding TDMA is in use.

A claim is anticipated if and only if each and every element is recited in a single prior art reference.

In this case, D1 cannot be said to anticipate the subject matter recited in claims 1, 6 and 17, as D1 fails to disclose the element of “a plurality of Temporary Data Management areas of a known dimension for storing disc management information and a designation area, independent of said Temporary Data Management area.”

Accordingly, the independent claims are not anticipated by the cited reference as the cited reference fails to disclose each of the elements recited in the claims.

With regard to the remaining claims, these claims are dependent from corresponding ones of the independent claims and, hence, these remaining claims are also not anticipated by D1 by virtue of their dependency upon an allowable base claim.

With regard to the rejection of claim 20 as being unpatentable over D1, applicant respectfully disagrees with and explicitly traverses the rejection of the claims.

Claim 20 depends from a corresponding independent claim, which has been shown to include subject matter not disclosed by the cited reference.

Accordingly, claim 20 is not rendered unpatentable over D1 as D1 fails to disclose all the elements recited in the claim.

For the amendments made to the claims and for the remarks made, herein, applicant submits that the reason for the rejections of the claims has been overcome and respectfully requests that the rejections be withdrawn and a Notice of Allowance be issued.

Applicant denies any statement, position or averment stated in the Office Action that is not specifically addressed by the foregoing. Any rejection and/or points of argument not addressed are moot in view of the presented arguments and no arguments are waived and none of the statements and/or assertions made in the Office Action is conceded.

Applicant makes no statement regarding the patentability of the subject matter recited in the claims prior to this Amendment and has amended the claims solely to facilitate expeditious prosecution of this patent application. Applicant respectfully reserves the right to pursue claims, including the subject matter encompassed by the originally filed claims, as presented prior to this Amendment, and any additional claims in one or more continuing applications during the pendency of the instant application.

In order to advance the prosecution of the matter, applicant respectfully requests that any errors in form that do not alter the substantive nature of the arguments presented herein be transmitted telephonically to the applicant's representative so that such errors may be quickly resolved or pursuant to MPEP 714.03 be entered into the record to avoid continued delay of the prosecution of this matter any further.

MPEP 714.03 affords the Examiner the discretion, pursuant to 37 CFR 1.135 (c), to enter into the record a bona fide attempt to advance the application that includes minor errors in form.

“[a]n Examiner may treat an amendment not fully responsive to a non-final Office Action by: (A) accepting the amendment as an adequate reply to the non-final Office action to avoid abandonment ... (B) notifying the applicant that the reply must be completed... (C) setting a new time period for applicant to complete the reply ...

The treatment to be given to the amendment depends upon:

(A) whether the amendment is bona fide; (B) whether there is sufficient time for applicant's reply ... (C) the nature of the deficiency.

Where an amendment substantially responds to the rejections, objections or requirements in a non-final Office action (and is bona fide attempt to advance the application to final action) but contains a minor deficiency (e.g., fails to treat every rejection, objection or requirement), the examiner may simply act on the amendment and issue a new (non-final or final) Office action. The new Office action may simply reiterate the rejection, objection or requirement not addressed by the amendment (or otherwise indicate that such rejection, objection or requirement is no longer applicable).

This course of action would not be appropriate in instances in which an amendment contains a serious deficiency (e.g., the amendment is unsigned or does not appear to have been filed in reply to the non-final Office action)..."

However, if the Examiner believes that such minor errors in form cannot be entered into the record or that the disposition of any issues arising from this response may be best resolved by a telephone call, then the Examiner is invited to contact applicant's representative at the telephone number listed below to resolve such minor errors or issues.

Amendment
Docket No: 2004P00318US
Serial No. 10/597, 413

No fees are believed necessary for the timely filing of this paper.

Respectfully submitted,
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Date: May 9, 2012

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